

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

MARGARITO SERRANO-LOPEZ, et al.,

Plaintiff,

vs.

KERT LEE BEYNON, *et al.*,

Defendants.

Case No. 2:14-cv-00871-JCM-GWF

**REPORT AND  
RECOMMENDATION**

This matter is before the Court on Defendant's Motion for Sanctions Against Plaintiffs for Failure to Attend Their Depositions (#32), filed on January 30, 2015. This matter is also before the Court on Defendant's Motion for Sanctions Against Plaintiffs for Failure to Respond to Written Discovery (#34), filed on February 6, 2015. A hearing was held in this matter on March 5, 2015.

In their Motions, the Defendants represent that written discovery was sent to the Plaintiffs on August 7, 2014. Plaintiffs did not provide any discovery responses. A follow up letter was sent to the Plaintiffs on January 5, 2015. There has, to date, been no response from the Plaintiffs. The Defendants further represent that depositions were scheduled for the Plaintiffs: Margarito Serrano-Lopez at 9:00 a.m. on December 30, 2014, Anareli Perez-Rodriguez at 9:00 a.m. on December 31, 2014, and Fernando Penz-Loza at 1:00 p.m. on December 31, 2014. The Plaintiffs all failed to appear for their depositions. The Plaintiffs have not participated in the lawsuit in any way since counsel for the Plaintiffs moved to withdraw from all representation on October 21, 2014. (#23). That motion was granted on November 12, 2014. (#30). All mail delivered to the Plaintiffs since that date has been returned as undeliverable. The Plaintiffs have not provided a current mailing address and appear to have abandoned the case.


Defendants move for sanctions under Rule 37 of the Federal Rules of Civil Procedure,

1 which permits the Court to impose sanctions on a party who fails to comply with the rules of  
2 discovery. Rule 37(d) deals with a party's failure to attend his own deposition or to serve any  
3 response to written discovery, and provides that the various sanctions under Rule 37(b)(2)(A) may  
4 be imposed. Based on the Plaintiffs' complete failure to participate in discovery or to respond to  
5 Defendants' motions, dismissal of the action pursuant to Rule 37(b)(2)(A)(v) is the appropriate  
6 sanction in this case. Accordingly,

7 **IT IS HEREBY RECOMMENDED** that the Defendants' Motion for Sanctions Against  
8 Plaintiffs for Failure to Attend Their Depositions (#32) and the Defendants' Motion for Sanctions  
9 Against Plaintiffs for Failure to Respond to Written Discovery (#34) be **granted**.

10 **IT IS FURTHER RECOMMENDED** that the Plaintiffs' Complaint (#1-1) be **dismissed**  
11 with prejudice.

12 **DATED** this 11th day of March, 2015.

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15 GEORGE FOLEY, JR.  
16 United States Magistrate Judge  
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